

**ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
JUNE 12, 2014**

Town of Bedford  
Bedford Town Hall  
Lower Level Conference Room

**PRESENT:** Jeffrey Cohen, Acting Chair; Carol Amick, Clerk; Jeffrey Dearing; Todd Crowley; Michelle Puntillo; Kay Hamilton

**ABSENT:** Angelo Colasante, Chair; Arthur Smith

Mr. Cohen introduced himself and read the emergency evacuation announcement. The Zoning Board of Appeals (ZBA) members and assistant introduced themselves.

**PRESENTATION:** Ms. Amick read the notice of the hearing.

**PETITION #035-14** – Charles and Helen Chang, at 8 Highview Avenue, seek a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct entrance portico within front yard setback.

Charles and Helen Chang greeted the Board and introduced themselves. Ms. Chang explained that their house was built about 11 years ago, and the house design they chose had included a front portico, but when construction began the contractor informed them that the portico would jut into the front yard setback and they would have to go through the Zoning Board process to have it approved. She said they were, at the time, anxious to move into the new home and decided not to go through the ZBA process. She said that, since then, the front steps have settled and one side has caved, rendering the steps unusable. She said they were planning to replace those steps, and they thought this would be an appropriate time to go before the Zoning Board to request relief for that entrance portico.

The Board talked about the dimensions of the steps and portico as shown on the plot plan. Mr. Cohen noted that the Board always preferred to see the proposed structure drawn on the plot plan. Ms. Chang stated that the steps were four feet deep but the roof over them would be five foot deep. She pointed out that the current setback was 35.5 feet from the property line, and this overhang would bring the setback to 30.5 feet. Mr. Dearing drew the proposed structure onto the plot plan; Ms. Chang confirmed that the dimensions he drew were correct, and initialed the plan.

Mr. Cohen opened the hearing to the public.

Daniel Carroll, of 1 Hilda Road, said that he was the rear abutter to the Chang's. He said they were wonderful neighbors with a beautifully maintained house, and he fully

supported their application.

Mr. Cohen asked the applicants whether they planned to enclose the portico in the future. Ms. Chang replied that they did not. There was discussion about whether to include a condition of the Special Permit that the portico would never be enclosed. Ms. Chang said she would not have any problem with such a condition.

With no further comments from those in attendance, Mr. Cohen closed the public hearing.

#### **DELIBERATIONS:**

Mr. Cohen said that he felt this application met the two requirements of a Special Permit, in that it was in keeping with the intent and purpose of the By-Law and was not substantially more injurious or detrimental to the neighborhood. He stated that he felt comfortable voting in favor of this petition, with the condition that the porch was not enclosed in the future. The other Board members agreed.

#### **MOTIONS:**

Ms. Amick moved to grant Charles and Helen Chang, at 8 Highview Avenue, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning Bylaw to construct entrance portico within front yard setback, substantially as shown on Exhibit 1 (amended plot plan) and Exhibit 2 (design of future portico), with the condition that the porch not be enclosed.

Mr. Dearing seconded the motion.

Voting in favor: Cohen, Amick, Dearing, Crowley, and Puntillo

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Cohen explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, barring any appeals, the applicant may apply for a Building Permit at the Code Enforcement Department.

**PRESENTATION:** Ms. Amick read the notice of the hearing.

**PETITION #034-14** – Sheldon Maloney, 12 Winterberry Way, seeks a Special Use Permit per Section 5.1.5 of the Zoning Bylaw for home occupation to allow clients to come to premises.

Sheldon Maloney introduced himself and his son, Sheldon Jr. Mr. Maloney stated that he had been a resident of Bedford for 20 years and was also a police officer for the Town. He said that he was requesting a Special Permit for use of his home garage for window tint installations for clients. He said that window tinting has become quite popular for cars, as it helps block UV rays and is considered helpful in preventing skin cancer. He said he used to own his own car shop but sold it once he became a police officer, and this was now a side-job – more of a hobby than a business. He explained that he typically serviced one to four cars per week. He added that he had been given a Business Certificate from the Town Clerk, and he had assumed that he had all the necessary paperwork, but after a neighbor called to complain he was informed that he needed a Special Permit from the Zoning Board.

Ms. Amick asked when the business license was issued. Mr. Maloney handed the Board a copy of the license and stated that it was issued in February of 2014.

Ms. Amick asked about the window tinting process. Mr. Maloney stated that he had a plotter in his computer, into which he entered the make, model, and year of the vehicle and the printer printed out a plastic film that fitted the windshield; he then adhered the film to the windshield with soap and water. He stressed that there were no chemicals or hazardous materials involved in this process.

Ms. Puntillo asked whether there was any noise associated with the cutter. Mr. Maloney replied that there was not; it made approximately the same amount of noise as a printer, and it was always used behind the closed garage door.

Mr. Cohen asked about the hours of operation. Mr. Maloney responded that his police shift was typically 3:00 PM to 11:00 PM, so he hoped to work on cars during the 9:00 AM to 1:00 PM window.

Ms. Amick asked how long it took to complete the tinting on one car. Mr. Maloney said it took approximately an hour to an hour and a half.

Mr. Cohen asked whether there would be any external changes to the house. Mr. Maloney replied that there would not; this business simply involved pulling a car into the garage, closing the garage door, and then driving the car out when it was finished.

Mr. Cohen opened the hearing to the public.

Doreen Mead, at 10 Winterberry Way, said she had lived on this street since 1995 and was concerned about the number of drivers who sped up and down the street. She said it was a narrow street and many people parked along it, making it even narrower. She commented that people on the street get many deliveries, and the applicant gets deliveries for his business as well. She said that she was greatly concerned about people walking on the street, especially children.

Mr. Dearing said he traveled on Winterberry Way a lot and agreed that there were cars

parked along the street often. He asked the applicant about deliveries to his house for this business. Mr. Maloney said that the only packages he received were for the plastic film, which came in a 40"x40" box via UPS. He said that the deliveries occurred once every two weeks.

There was discussion about on-street parking. Mr. Maloney said that there were indeed many people who parked on the street. He said that the Bedford General Bylaw stated that no on-street parking was allowed at any time, but it was a rule that most people didn't follow and he did not wish to police his own neighborhood.

Ms. Mead reiterated that this was a dangerous street, especially with speeding cars, and she felt it was not appropriate to allow any business that would add to the traffic. Mr. Maloney pointed out that his house was the second house on the street, so although some people did speed on Winterberry Way, no one would ever speed to get to his house.

There was further conversation about traffic and parking on Winterberry Way.

Dan Carroll, of 1 Hilda Road, said he had used Mr. Maloney's car service in the past and he had always been professional and had not affected the residential character of the neighborhood. He said he appreciated the concerns about the safety of the road, but Winterberry Way was no busier than any other street in Bedford, and he did not feel that this business would add much traffic to it.

Mr. Maloney handed the Chair three letters from neighbors in support of his application. Mr. Cohen read the letters – from Fedor Karev, of 14 Winterberry Way; Laura Zampell, of 19 Winterberry Way; and Vikram Kumar, of 7 Aspen Circle – into the record (see attached).

Ms. Puntillo said that the parking on the street and the speeding seemed to be separate issues from the applicant's proposed business.

Robert Kalantari, of 8 Donovan Drive, said it was clear to him that the applicant was not proposing an extensive business plan, and he didn't feel that the extra six or eight extra cars a week going to Mr. Maloney's house would pose any problem for the neighborhood. He said he supported the application.

Mr. Maloney said that he would rent out a space and relocate the business if the use ever became too intense for a residential neighborhood. Mr. Cohen asked at what point Mr. Maloney would need to relocate. Mr. Maloney said that if he ever needed to service more than five cars a day, he would relocate.

With no further comments or questions from those in attendance, Mr. Cohen closed the public hearing.

**DELIBERATIONS:**

Mr. Cohen stated that this was a Special Permit application, and the two requirements of a Special Permit were that the project was in keeping with the intent and purpose of the By-Law and was not substantially more injurious or detrimental to the neighborhood. Mr. Cohen said that he felt this home occupation business would meet those requirements as long as certain conditions were placed on the Special Permit to limit the impact on the neighborhood. The other members agreed.

There was extensive discussion about what the wording of the conditions. It was ultimately decided that there would be five conditions:

1. The Special Permit shall apply only to the business, Team S&S Window Tinting.
2. Only one customer shall be allowed on the premises at a time.
3. Hours of operation shall be limited to Monday through Saturday, 9:00 AM to 3:00 PM.
4. The number of clients shall be limited to ten per week.
5. There shall be no client parking on the street.

Mr. Maloney said he was fine with all of those conditions.

Mr. Cohen called for a motion.

**MOTION:**

Ms. Amick moved to grant Sheldon Maloney, 12 Winterberry Way, a Special Use Permit per Section 5.1.5 of the Zoning Bylaw for home occupation to allow clients to come to premises, subject to the following five conditions:

6. The Special Permit shall apply only to the business, Team S&S Window Tinting.
7. Only one customer shall be allowed on the premises at a time.
8. Hours of operation shall be limited to Monday through Saturday, 9:00 AM to 3:00 PM.
9. The number of clients shall be limited to ten per week.
10. There shall be no client parking on the street.

Mr. Dearing seconded the motion.

Voting in favor: Cohen, Amick, Dearing, Crowley, and Puntillo

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Cohen explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds.

**BUSINESS MEETING:**

**Avalon at Bedford Center**

***BUSINESS ITEM:*** *Avalon at Bedford Center, 57 Concord Road, seeks a determination as to whether a new sign at the property is a substantial change to the original Comprehensive Permit.*

Amy Rawlings, Operations Director for the Avalon office in Boston, introduced herself and *[Will insert name when Ms. Rawlings responds to my email and gives me the name]*.

Mr. Cohen explained that this was not a public hearing to approve or deny an application. He stated that Avalon Bay was granted a Comprehensive Permit under Chapter 40B several years ago, and any time a change is proposed to a Comprehensive Permit, the Code Enforcement Director, Christopher Laskey, asks the Owner to appear before the ZBA to determine whether the change is substantial or insubstantial. He said that if the change is deemed insubstantial, the applicant is allowed to move forward with the change without re-opening the public hearing. He said that, about two weeks ago, Avalon replaced its 20 square foot sign with a new 45 square foot sign. He stated that he was very disappointed that Avalon put up this sign without a permit and without even checking with the Town, especially since Avalon has so much experience with Comprehensive Permits.

Ms. Rawlings apologized that this happened and explained that it was a lack of communication between the main field offices in Boston and Virginia, and the Bedford Avalon office. She stated that the company had recently rebranded their corporate logo and upgraded all signage at their sites, during which time the marketing department assumed that the sign company had pulled a permit and received the necessary approvals from the Town, and the sign company assumed the same regarding the field office. She said that this was a miscommunication, but she understood that this fact did not excuse what happened.

There was conversation about the Comprehensive Permit process and regulations.

Mr. Cohen said that this was a tricky procedural problem, because, in his experience, he felt changing a sign was technically not a substantial change, but he didn't want the sign to be tacitly approved because the Board ruled it insubstantial.

There was extensive discussion about the size of the sign and what the Board could or could not allow, either by right or by reopening the public hearing.

Mr. Cohen said that Avalon was located in a residential district, but his recollection of the Avalon sign discussion was that the Board allowed the company to have the equivalent of a Business zone sign, which at the time was 20 square feet. He noted that the Sign Bylaw has recently been updated, however, to allow 30 square feet in Business zones, so the Board could also consider allowing a 30 square foot sign.

Ms. Amick asked the applicant whether there were a way to come up with a sign scheme that would comply with the Comprehensive Permit size limitations. Ms. Rawlings said that Avalon realized it had made a serious mistake and the company fully planned to rectify it by creating a sign that at least conformed to the Business zone bylaw and probably compared to the 20 square foot requirement. Mr. Cohen said that a 20 square foot sign would comply with the condition set forth in the Comprehensive Permit; he said that he would have no problem with deeming a 20 square foot sign insubstantial and allowing it as of right if Avalon proposed it. The general consensus of the other Board members was that they agreed.

The Board decided that the best course of action was to continue this hearing to the next meeting date to get an opinion from Mr. Laskey on the legal outcomes of determining that the sign was substantial or insubstantial.

**MOTION:**

Ms. Amick moved to continue the business discussion of Avalon to Thursday June 26, 2014 at 7:30 PM.

Mr. Dearing seconded the motion.

Voting in favor: Cohen, Amick, Dearing, Crowley, Puntillo, and Hamilton

**Meeting Minutes**

Mr. Cohen asked whether the other members had read the minutes and had read his edits to the minutes. Ms. Amick said she had, but would abstain because she had not been present at the meeting.

Mr. Cohen called for a motion to approve the minutes of the May 22 meeting.

**MOTION:**

Ms. Dearing moved to approve the minutes of the May 22, 2014 meeting, as amended.

Mr. Crowley seconded the motion.

Voting in favor: Cohen, Dearing, Crowley, Puntillo, and Hamilton

Voting against: None

Abstained: Amick

The motion carried, 5-0-1.

**MOTION:**

Ms. Amick moved to adjourn the meeting.

Mr. Dearing seconded the motion.


Voting in favor: Cohen, Amick, Dearing, Crowley, Puntillo and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously.

The meeting adjourned at 9:35 PM.

  
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Jeffrey Cohen, Acting Chair

6/26/14  
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Date

Respectfully Submitted,

Scott Gould  
ZBA Assistant